

PHASE I ENHANCED 911 SERVICE AGREEMENT
BETWEEN _____ COUNTY
AND VERIZON WIRELESS

This Phase I Enhanced 911 ("E911") Service Agreement is made and entered into by and between _____ County, a governmental entity organized under the laws of the State of Washington (hereinafter "County"), and Seattle SMSA Limited Partnership d/b/a Verizon Wireless (hereinafter "Provider"), a partnership organized under the laws of the State of Delaware, (collectively the "Parties"), for the installation and provision of Phase I E911 Service in compliance with applicable law, including but not limited to, the Federal Communications Commission ("FCC") Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 94-102, released July 26, 1996, and any subsequent FCC orders in that docket ("FCC Order").

WHEREAS, Provider provides for the exclusive use of the telephone number "9-1-1" for E911 Service; and

WHEREAS, Provider offers wireless telephone service within the geographic boundaries of County and 9-1-1 Calls originated on its network will be routed to PSAPs within the County E911 system; and

WHEREAS, County has requested Phase I E911 Service in writing from Provider for each PSAP in the County; and

WHEREAS, the State Enhanced 911 Coordination Office has the responsibility of coordinating and facilitating the implementation and operation of enhanced 911 emergency communications systems throughout the State (RCW 38.52.520); and

WHEREAS, the Parties wish to implement Phase I E911 Service according to the terms and conditions described herein and in accordance with the FCC Order;

NOW THEREFORE, the Parties hereto agree as follows:

1.0 DEFINITIONS.

1.1 9-1-1 Call. A call made by a Provider Wireless End User by dialing "9-1-1" (and, as necessary, pressing the "Send" or analogous transmitting button) on a Wireless Handset.

1.2 Activation. The act of "turning on" or activating Phase I E911 Service for live use by Wireless End Users where service is available.

1.3 Activation Date. The date on which Activation takes place.

1.4 Address. For Phase I E911 Service, address is the identification of the Cell Site/Cell Sector which received the 9-1-1 Call, which may include the identification of a Cell Site address, Cell Sector orientation, and/or a text description of the area.

1.5 Automatic Location Identification ("ALI"). The Mobile Directory Number information of Wireless End Users and the Cell Site/Cell Sector information.

1.6 Automatic Location Identification/Data Management System ("ALI/DMS"). A system of manual procedures and computer programs used to create, store, and update the data required for Automatic Location Identification in support of E911 Service.

1.7 Automatic Location Identification ("ALI") Database. A computer database used to update the Mobile Directory Number information of Wireless End Users and the Cell Site/Cell Sector Information.

1.8 Cell Sector. An area, geographically defined according to Provider's own radio frequency coverage data, and consisting of a certain portion or all of the total coverage area of a Cell Site.

1.9 Cell Site. A Provider's radio frequency base station that receives calls from Wireless End Users.

1.10 Cell Sector Identifier. The unique alpha-numeric designation given to a particular Cell Sector that identifies that Cell Sector.

- 1.11 Commercial Mobile Radio Service ("CMRS"). As defined in 47 CFR, Section 20.3.
- 1.12 Company Identifier. A National Emergency Number Association ("NENA") approved 3-5 character identity chosen by the telephone service provider that distinguishes the entity providing the dial tone to the subscriber.
- 1.13 Emergency Service Routing Key ("ESRK"). A routing number translated from the Cell Site or Cell Sector Identifier that routes the 9-1-1 Call to the appropriate PSAP. The number is also used as the unique call key for the corresponding host ALI record and represents the destination to which the call will be routed. This number cannot be dialed.
- 1.14 Enhanced 911 ("E911") Service. A communication service whereby one or more Public Safety Answering Point ("PSAP") locations, designated by County, may receive telephone calls dialed to the telephone number 9-1-1. E911 Service includes network facilities necessary for the answering, transferring, and forced disconnect of emergency 9-1-1 Calls originated by persons within the geographic area of County.
- 1.15 E911 Advisory Committee. The Committee established in RCW 38.52.530.
- 1.16 E911 Service Provider. The local exchange carrier providing the E911 Tandem/Selective Routing services for County's wireline E911 Service.
- 1.17 E911 Tandem/Selective Router. A central office which provides tandem switching of 9-1-1 Calls. It controls switching of automatic number identification information to the PSAP and also provides the selective routing feature and certain maintenance functions for each PSAP.
- 1.18 Mobile Directory Number ("MDN"). A 10-digit dialable directory number used to call a Wireless Handset, i.e. the call back number.
- 1.19 Mobile Switching Center ("MSC"). A wireless carrier facility that houses the switching and trunking equipment serving wireless telephones in a defined area.
- 1.20 P.01 Grade of Service. Wireline trunk facility calculated to provide that during the average busy hour, no more than 1% of calls into the E911 System will encounter a busy condition. However, this wireline measurement will not be applied to wireless E911 service.
- 1.21 Phase I E911 Service. A service that facilitates the selective routing of 9-1-1 Calls and the display of ALI at the PSAPs.
- 1.22 Phase I Implementation Plan. A plan outlining the CMRS Provider's plan for the implementation of Phase I E911 Service in the counties in Washington State. The plan shall include, but is not limited to: Phase I E911 Service activation date; network flowchart, including the CMRS provider's relevant MSCs; specification of the technology used for interface to the E911 Tandem/Selective Router and the ALI/DMS, and a 9-1-1 Call flow description; procedures for updating Cell Site and Cell Sector Information; default and diverse routing plans; and an outline of Phase I E911 Service testing procedures.
- 1.23 Public Safety Answering Point ("PSAP"). An answering location designated by local governments for 9-1-1 Calls originating in a given area.
- 1.24 Vendors. Third party software developers and hardware providers, other vendors, and other suppliers and manufacturers of supplies and services that enable the provision of Phase I E911 Service.
- 1.25 Wireless End User. Any person or entity placing a 9-1-1 Call on Provider's CMRS system.
- 1.26 Wireless Handset. The wireless equipment used by a Wireless End User to originate or receive wireless telephone calls. The handset used to make the 9-1-1 Call may not have an associated MDN which can be used to place a return call to the handset.

2.0 PROVIDER RESPONSIBILITIES.

- 2.1 In accordance with the FCC Order and this Agreement, Provider shall provide Phase I E911 Service for 9-1-1 Calls processed through its CMRS system.
- 2.2 Provider agrees to cooperate and work in good faith with County and any necessary third parties (including, but not limited to: E911 Service Provider(s), ALI/DMS system provider, other PSAPs, and Vendors), to provide Phase I E911 Service to County.
- 2.3 Within sixty (60) days after the execution of the Agreement, Provider shall submit a Phase I Implementation Plan to County for review and approval. Upon approval, the plan shall be incorporated into this Agreement as Exhibit B.
- 2.4 Provider shall identify all Cell Sites/Cell Sectors, their addresses, latitude/longitude coordinates, and their coverage area within the geographic boundaries of County and coordinate with County to determine the most appropriate routing for 9-1-1 Calls from each Cell Sector. Provider, or its designated representative, shall promptly notify affected counties of Phase I E911 Service affecting additions or changes to Cell Sites/Cell Sectors.
- 2.5 When a network problem is identified in which Phase I E911 Service is affected, Provider agrees to work with the County and the E911 Service Provider(s), the ALI/DMS system provider, and others as necessary, to promptly determine the source of the problem and make the necessary corrections.
- 2.6 Provider shall work with County to develop a plan for adequate capacity to provide Phase I E911 Service to Provider's Wireless End Users at a mutually agreed upon traffic plan while using best efforts to prevent the PSAPs from being overloaded with wireless 9-1-1 Calls from a single incident. Provider agrees to work with the County to meet the County's congestion control goals.
- 2.7 Provider shall monitor levels of service from MSC to E911 Tandem/Selective Router and notify County when monitoring results indicate the need for changes in number of trunks.
- 2.8 Provider shall provide normal monitoring of facilities to discover errors, defects, and malfunctions in the 911 transport provided by Provider.
- 2.9 When Phase I E911 service interruptions are identified, Provider agrees to work to restore service on a priority basis.
- 2.10 9-1-1 shall be a free call for Wireless End Users.
- 2.11 Provider shall provide County with a list of contact name(s), responsibilities, and telephone numbers, of personnel who are responsible for performing the duties described herein. The contact information shall include a twenty-four (24) hour per day, seven (7) day per week contact telephone number for reporting network problems and for PSAP contact in emergency situations. Provider shall notify County of changes in contact information.
- 2.12 Provider agrees to respond to valid requests for Phase II service.
- 2.13 Provider shall register with NENA to obtain a Company Identifier which shall be included in Provider's ALI database for display at the PSAP.
- 2.14 Year 2000 Compliance. An information system is "Year 2000 Compliant" when the system is able to accurately process date data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, including leap year calculations.
- Provider represents that any upgrades, modifications, and customizations to its software and equipment used by Provider to provide the service hereunder shall be Year 2000 Compliant.
- 2.15 Provider agrees that it shall not use any trade name, service mark, or trademark of County or refer to County in any promotional activity or material without first obtaining the prior written consent of County.

3.0 COUNTY RESPONSIBILITIES.

- 3.1 County agrees to cooperate and work in good faith with Provider and, where necessary as determined by Provider, with third parties (including, but not limited to: Vendors, ALI/DMS system provider, other PSAPs, and Wireless Service Providers) for the successful implementation and provision of Phase I E911 Service.
- 3.2 County shall document in accordance with applicable FCC rules or orders, that the PSAPs within County's jurisdictional control are capable of receiving and utilizing the data elements associated with Phase I E911 Service, and that a mechanism for covering the PSAP costs of receiving and utilizing the Phase I E911 data elements is in place.
- 3.3 County agrees to exercise best efforts to answer wireless 9-1-1 Calls transported by 911 circuits connected to Provider's MSCs.
- 3.4 The PSAPs within the County E911 System shall answer 9-1-1 Calls on a twenty-four (24) hour per day, seven (7) day per week basis.
- 3.5 County shall use its best efforts to ensure that there are a sufficient number of 911 circuits between the E911 Tandem/Selective Router and the PSAPs and provide customer premises equipment at the PSAPs with a capacity adequate to handle the number of incoming 911 circuits necessary to provide a P.01 Grade of Service.
- 3.6 County shall work with Provider to develop a plan for adequate capacity to provide Phase I E911 Service to Provider's Wireless End Users at a mutually agreed upon traffic plan while using best efforts to prevent the PSAPs from being overloaded with wireless 9-1-1 Calls from a single incident. Provider agrees to work with the County to meet the County's congestion control goals.
- 3.7 On each 9-1-1 Call, the PSAPs shall attempt, where feasible, to determine the location of the incident with the caller to allow for the dispatching of emergency services.
- 3.8 If a County PSAP receives a wireless 9-1-1 Call and determines that the location of the caller is outside its serving area, the PSAP shall attempt to relay or transfer the 9-1-1 Call to the appropriate PSAP.
- 3.9 When Cell Site/Cell Sector coverage crosses jurisdictional boundary lines, County shall coordinate with the other jurisdictions affected to determine the most appropriate routing for the cell sector, and notify Provider in writing of agreed upon routing changes.
- 3.10 Unless another use is specifically authorized by law, County agrees to use the Phase I E911 ALI only for the purposes of responding to emergency situations.
- 3.11 County shall provide Provider with a list of PSAPs and their corresponding coverage areas for routing of wireless 9-1-1 Calls.
- 3.12 County shall provide Provider with a list of contact name(s), responsibilities, and telephone numbers, of personnel who are responsible for performing the duties described herein. The contact information shall include a twenty-four (24) hour per day, seven (7) day per week contact telephone number for reporting network problems and for Provider contact in emergency situations. County shall notify Provider of changes in contact information.
- 3.13 County agrees that it shall not use any trade name, service mark, or trademark of Provider or refer to Provider in any promotional activity or material without first obtaining the prior written consent of Provider.

4.0 CONFIDENTIALITY.

- 4.1 This Agreement is subject to public disclosure laws. This Agreement is considered a public document and will be available for inspection and copying by the public. If Provider considers such information delivered to the County to be protected under the law, Provider shall clearly identify each such portion with words such as "CONFIDENTIAL", "PROPRIETARY", OR "BUSINESS SECRET," as further discussed herein. If a request is made for disclosure of such portion the County will determine whether the material should be made available under the law. If it is determined that the material is not exempt from public disclosure law,

the County will notify Provider of the determination and allow Provider thirty (30) days to take whatever action it deems necessary to protect its interests. If Provider fails or neglects to take such action within said period, the County will release the portions of the information deemed subject to disclosure. Provider assents to the procedure outlined in this paragraph and shall have no claim against the County on account of actions taken under such procedure, provided that County follows the procedure set forth herein.

- 4.2 The parties may need to obtain from the other certain technical and business information related to the implementation and provision of wireless Enhanced 911 Service under terms that will protect the confidential and proprietary nature of such information for the purpose of having each party exchange such information under such terms that will protect the confidential and proprietary nature of such information.
- 4.3 As used herein, "Confidential Information" shall mean any and all technical or business information, including third party information, furnished, in whatever tangible form or medium, or disclosed by one party to the other including, but not limited to, product/service specifications, prototypes, computer programs, models, drawings, marketing plans, financial data, and personnel statistics, so long as such information is clearly marked as confidential or proprietary. The disclosing party indicates to the other at the time of disclosure the confidential or proprietary nature of the information and provides a summary of the orally disclosed information in writing to the receiving party within twenty (20) days after such disclosure which summary is also marked as confidential. The Parties agree that Confidential Information shall include information provided by Provider to the County marked as "CONFIDENTIAL", "PROPRIETARY", OR "BUSINESS SECRET". Provider's failure to specifically identify items as "CONFIDENTIAL", "PROPRIETARY", OR "BUSINESS SECRET" will not diminish Provider's proprietary rights in its trade secrets and other confidential information provided. If Provider fails to specifically label protected items, the County will not be liable to Provider for inadvertently releasing such items pursuant to a disclosure request. The County shall ensure that each PSAP is aware of this provision and agrees in writing to comply, subject to public disclosure laws. The Parties further agree that, without further designation, all network performance data and end user data and information shall be considered Confidential Information.
- 4.4 Each party agrees to treat such Confidential Information as confidential for a period of three (3) years after termination of the Agreement otherwise agreed to in writing by both Parties, except that Verizon Wireless customer information shall remain confidential forever, and that during such period each party will use same solely for the purposes of this Agreement unless otherwise allowed herein or by written permission of the disclosing party. In handling the Confidential Information each party agrees: (a) not to copy such Confidential Information of the other unless specifically authorized; (b) not to make disclosure of any such Confidential Information to anyone except employees and subcontractors of such party to whom disclosure is necessary for the purposes set forth above; (c) to appropriately notify such employees and subcontractors that the disclosure is made in confidence and shall be kept in confidence in accordance with this Agreement; and (d) to make requests for Confidential Information of the other only if necessary to accomplish the purposes set forth in this Agreement. The obligations set forth herein shall be satisfied by each party through the exercise of at least the same degree of care used to restrict disclosure and use of its own information of like importance. Notwithstanding the foregoing, disclosure may be made under the circumstances set forth in Section 4.1 of this Agreement.
- 4.5 Each party agrees that in the event permission is granted by the other to copy Confidential Information, or that copying is otherwise permitted hereunder, each such copy shall contain and state the same confidential or proprietary notices or legends, if any, which appear on the original. Nothing herein shall be construed as granting to either party any right or license under any copyrights, inventions, or patents now or hereafter owned or controlled by the other party.
- 4.6 Upon termination of this Agreement for any reason or upon request of the disclosing party, all Confidential Information, together with any copies of same as may be authorized herein, shall be returned to the disclosing party or certified destroyed by the receiving party.
- 4.7 The obligations imposed by this Agreement shall not apply to any information that: (a) is already in the possession of, is known to, or is independently developed from other public sources by the receiving party;

(b) is or becomes publicly available through no fault of the receiving party; (c) is obtained by the receiving party from a third person without breach by such third person of an obligation of confidence with respect to the Confidential Information disclosed; (d) is disclosed without restriction by the disclosing party; (e) is consolidated so that confidential data cannot be attributed to a specific Provider; or (f) is required to be disclosed pursuant to the lawful order of a government agency or disclosure is required by operation of the law.

- 4.8 The receiving party shall adhere to the U.S. Export Administration Laws and Regulations and shall not export or re-export any Confidential Information, technical data, or products received from the disclosing party, or any direct product of such Confidential Information or technical data, to any person or company who is a legal resident of or is controlled by a legal resident of any proscribed country listed in Section 779.4(f) of the U.S. Export Administration Regulations (as the same may be amended from time to time), unless properly authorized by the U.S. Government. This requirement is not limited by the time period stated in this Agreement.

5.0 LEGAL NOTICES.

- 5.1 Any legal notice to be given hereunder by either party to the other, shall be in writing and shall be deemed given when sent either by certified mail or by facsimile with a confirmation copy sent by certified mail. If either party changes its address during the term herein, it shall so advise the other party in writing as herein provided and any notice thereafter required to be given shall be sent by certified mail to such new address.

CONTACTS FOR LEGAL NOTICES

COUNTY	PROVIDER
_____ Name (Typed or Printed)	_____ Name (Typed or Printed)
_____ Title	_____ Title
_____ Address	_____ Address
_____ Telephone Number	_____ Telephone Number
_____ Fax Number	_____ Fax Number

6.0 INDEMNIFICATION AND HOLD HARMLESS.

Each party shall indemnify and hold harmless the other party, in connection with claims, losses, damages, liabilities, and law suits to the extent they arise from, or are alleged to arise from, the indemnifying party's negligent acts in connection with the indemnifying party's performance under this Agreement, or a party's use of, or operation of, the service provided under this Agreement. This indemnity extends solely to claims and lawsuits for injuries to persons, death, or destruction of tangible property. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES TO THE OTHER PARTY.

7.0 EXCLUSION OF WARRANTIES.

Provider does not warrant that Phase I E911 Service will be free from interruption, disconnections, errors, or other out-of-service conditions. THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS A CONTRACT FOR THE PROVISION OF SERVICES AND THAT ANY GOODS PROVIDED HEREUNDER ARE ANCILLARY TO THE PROVISION OF THE REQUESTED SERVICES. WITH THE SOLE EXCEPTION OF ANY EXPRESS WRITTEN MANUFACTURER'S WARRANTY, WHICH MAY BE APPLICABLE TO PARTICULAR GOODS, ALL GOODS ARE PROVIDED "AS IS", THIS AGREEMENT EXCLUDES ALL WARRANTIES OF WHATEVER KIND,

EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

8.0 LIMITATION OF LIABILITY.

The Parties agree that the Wireless Communications and Public Safety Act of 1999, 47 U.S.C. § 615 et. seq., is hereby incorporated into this Agreement by reference. LIABILITY IS FURTHER LIMITED PURSUANT TO WASHINGTON STATE LAW (RCW 38.52.550 and RCW 80.04.010). In no event shall either party be liable for any indirect, special, incidental or consequential damages to the other party. In the event that RCW 38.52.550 is modified by law or decision, then Provider shall have the right to negotiate a modification to this Agreement, subject to the severability provision found in Paragraph 17 .0 of this Agreement. The parties agree to work in good faith to negotiate such a modification; if the parties are unable to reach agreement within thirty (30) days of notice by Provider of its desire to seek a modification, then Provider may immediately terminate this Agreement.

9.0 TERM.

Unless otherwise terminated in accordance with the terms of this Agreement, the initial term, which shall commence upon execution by both parties, shall continue for a period of one (1) year. Thereafter, the Agreement shall automatically renew subsequent one (1) year terms, any of which may be terminated by either party upon sixty (60) days prior written notice prior to the end of the applicable term. This Agreement may also terminate earlier pursuant to the provisions of Section 10, "Default" and Section 11, "Termination".

10.0 DEFAULT.

In the event of a material default or breach by either party in the performance of any obligation under this Agreement, the non-defaulting party will promptly notify the defaulting party. If such default is not cured and corrected within thirty (30) days (or such time as may be reasonable if so specified in the notice) of written notice thereof, then the non-defaulting party may immediately terminate this Agreement.

11.0 TERMINATION AND MODIFICATION.

11.1 The County intends to continue the service provided under this Agreement for the entire term and to satisfy its obligations hereunder. The County shall continue to include in its budget request for each fiscal period appropriations or limitations sufficient to cover the County's obligations under this Agreement and will use all reasonable and lawful means to secure the appropriation of funds sufficient to make the payments becoming due in that fiscal period. The County reasonably believes that monies in amounts sufficient to discharge its obligations can and will lawfully be appropriated and made available for this purpose.

Payment shall not exceed the appropriation for the year in which termination is effected if the Agreement is terminated for non-appropriation. The County will be liable only for payment in accordance with the terms of this Agreement for Services rendered prior to the effective date of termination. Provider shall be released from any obligation to provide further Services pursuant to this Agreement as are affected by the termination.

Funding for this Agreement beyond the current appropriation year is conditional upon appropriation by the (Council/Commission) of sufficient funds to support the activities described in this Agreement. Should such an appropriation not be approved, this Agreement will terminate at the close of the current appropriation year. The appropriation year ends on December 31 of each calendar year.

11.2 If expected or actual funding is reduced or limited in any way prior to the termination date set forth in this Agreement, then either party may, upon sixty (60) days written notice to the other, terminate this Agreement in whole or in part. Such termination shall be in addition to that party's right to terminate for default pursuant to Section 10. Regardless of the availability of funds for Provider cost recovery, the parties' obligations to provide Phase I E911 service shall be governed by Applicable Law, as defined in Section 11.3, below.

- 11.3 Notwithstanding anything to the contrary in this Agreement, neither Party waives, and each Party expressly reserves,
- (a) its right to seek changes in this Agreement (including but not limited to, changes in rates, charges and the Services that must be offered) and
 - (b) to challenge the lawfulness and propriety of, and to seek to change or clarify, any applicable law, including, but not limited to any rule regulation, order or decision of the Commission, the FCC, or a court of applicable jurisdiction ("Applicable Law"), so long as the parties continue to perform in accordance with the terms of this Agreement until there is a final decision regarding the Applicable Law. In the event that either Party in good faith believes that the Applicable Law would violate another Applicable Law or if the Applicable law is ambiguous, it shall notify the other Party. If the Parties disagree on an interpretation of Applicable Law, the provisions of Section 13.0 shall apply. The Parties agree to perform in accordance with the terms of this agreement until there is a final decision regarding the Applicable Law. Nothing in this Agreement shall be deemed to limit or prejudice any position a Party has taken or may take before the Commission, the FCC, any other state or federal regulatory or legislative bodies, courts of applicable jurisdiction, or industry forum. Both Provider and County shall comply with the provisions of any such Applicable Law, including any retroactive payment obligations.

12.0 COST RECOVERY.

- 12.1 County acknowledges that Provider will incur costs in installing, testing, providing and maintaining Phase I E911 Service to County and hereby agrees to reimburse Provider for costs incurred by Provider in accordance with the provisions of this Section 12.0.
- 12.2 The State of Washington passed House Bill 2595, which amends RCW 38.52 and RCW 82.14B, providing a funding mechanism for Phase I E911 Service effective January 1, 2003. The Parties agree to abide by this cost recovery legislation. County agrees to provide cost recovery for Provider's costs of providing Phase I E911 Service pursuant to House Bill 2595 commencing January 1, 2003. If County requires assistance from the state 911 excise tax on radio access lines established by RCW 82.14B.030(4), cost recovery for Provider's costs shall commence upon release of funds by the state E911 office to the Counties. If the funds generated by the 911 excise taxes established by RCW 82.14B.030(2) and (4) are not sufficient to cover Provider and County costs, Provider cost recovery may be reduced or terminated. County shall distribute available funds based upon each provider's number of subscribers within the County.
- 12.3 Where not otherwise contrary to *Letter from Thomas Sugrue, Chief, Wireless Telecommunications Bureau (May 10, 2001)*, Provider agrees to cover the following costs: MPC service provider, including input to the ALI database (if the NCAS solution is deployed), facilities and trunk costs between the MSC and the E911 Tandem/Selective Router, including input to the E911 Tandem/Selective Router, and internal support costs. County agrees to cover the costs of maintaining and/or upgrading the E911 components and functionalities beyond the input to the E911 Tandem/Selective Router, including the E911 Tandem/Selective Router and its functions and features, the trunks between the E911 Tandem/Selective Router and the PSAPs, the ALI Database and its interface requirements, and PSAP customer premises equipment. Provider and County agree to negotiate changes to the agreement that may be necessary as a result of any subsequent decision of the FCC and/or Washington state government regarding cost recovery.
- 12.4 Phase I service rates and payment schedule are specified in Exhibit C herein. Provider must notify County at least six (6) months in advance of service rate changes.

13.0 DISPUTE RESOLUTION.

Except as provided herein, all claims, regardless of legal theory, related directly or indirectly to this Agreement, whenever brought and whether between the Parties or between one of the parties to this Agreement and the employees, agents, or affiliated businesses of the other party, may be resolved by

mediation or arbitration. Either party may request mediation or arbitration, but compliance with such request is not mandatory. The Parties agree to share equally the cost of the mediator and the mediation and each party shall bear its mediation costs. The Parties shall choose a mediator from a list of names produced by both parties of former judges or attorneys knowledgeable and experienced in the area of telecommunications or technology. Within ten days of receipt of such a list, each party shall notify the other indicating which individuals listed are acceptable as mediators. Counsel for the Parties shall agree on a mediator. Unless separately agreed to by the Parties in writing, such mediation or arbitration shall not be binding on either Party.

If either Party, in good faith, disagrees with an interpretation of an Applicable Law, which is within the jurisdiction of the FCC, then County and Provider shall jointly request a declaratory ruling from the FCC to resolve said dispute.

14.0 DELAY/FORCE MAJEURE.

Provider shall exercise reasonable efforts in performing services pursuant to this Agreement, but Provider shall not be liable for any delays resulting from circumstances beyond its control, including acts of third parties and acts of God. If any party is rendered unable, wholly or in part, by force majeure, to perform or comply with any obligation or condition of this Agreement then, upon giving notice and reasonably full particulars to the other party, such obligation or condition shall be suspended only for the time and to the extent reasonably necessary to allow for performance and compliance and restore normal operations. In the event a party ceases to be excused pursuant to this provision and fails to perform its obligations under this Agreement, then the other party shall be entitled to exercise any remedies otherwise provided for in this Agreement, including termination for default.

15.0 GOVERNING LAW.

This Agreement shall be governed according to the laws of the State of Washington and applicable Federal Law. Jurisdiction and venue shall be in a court of competent jurisdiction in the County where the Phase 1 E911 Service is provided, subject to the provisions of RCW 36.01.050.

16.0 ASSIGNMENT.

Neither this Agreement nor any rights hereunder in whole or in part shall be assignable or otherwise transferable by either party, except that Provider may assign its rights or delegate its duties under this Agreement to any of its affiliates, to the surviving entity in a merger or consolidation or to a purchaser of substantially all of the assets of the business to which this Agreement relates without County's written consent. All the terms and provisions of this Agreement will be binding upon and inure to the benefit of and be enforceable by the Parties and their respective permitted successors/assigns. The respective obligations of the parties under this Agreement that by their nature would continue beyond termination, cancellation or expiration shall survive any such termination, cancellation or expiration. For purposes of this Agreement an affiliate shall be defined as an entity that controls, is controlled by or is under common control with Provider.

17.0 SEVERABILITY.

The invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions, and this Agreement shall be construed as if such invalid provision had been omitted. No provision of the Agreement may be terminated, modified or waived except as set forth in a written agreement executed by authorized representatives of the Parties. No terms and conditions of any County purchase order or invoice shall be effective if they add to or conflict with this Agreement.

18.0 ENTIRE AGREEMENT.

This Agreement represents the entire agreement between the Parties, is a final, complete exclusive statement of the terms thereof, and supersedes and terminates any prior agreement, understanding, or representation between the Parties with respect thereto, whether written or oral.

19.0 EXECUTION.

This Agreement shall become effective upon execution by both parties.

20.0 EXHIBITS.

The Exhibits attached to and hereby incorporated into this Agreement are:

EXHIBIT A: Contact Information

EXHIBIT B: Phase I E911 Service Implementation Plan (To be provided as described in Paragraph 2.3 within sixty days of the execution of this Agreement.)

EXHIBIT C: Phase I Service Rates and Payment Schedule

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the last date signed below.

_____ COUNTY

Seattle SMSA Limited Partnership d/b/a
VERIZON WIRELESS

Signature

Signature

Name (Typed or Printed)

Name (Typed or Printed)

Title

Title

Date

Date

Approved as to Form Only:

_____ County Deputy Prosecuting Attorney

Signature

Name (Typed or Printed)

Date